



**CONGRESSIONAL BUDGET OFFICE  
ESTIMATE OF COSTS  
OF PRIVATE-SECTOR MANDATES**

October 3, 2000

**H.R. 4541  
Commodity Futures Modernization and Financial Contract Netting  
Improvement Act of 2000**

*As ordered reported by the House Committee on Banking and Financial Services  
on July 27, 2000*

**SUMMARY**

H.R. 4541 would impose three new private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA) on insured depository institutions, registered futures associations, and retail swap market participants. CBO estimates that the direct costs of those mandates would be below the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation).

**PRIVATE-SECTOR MANDATES CONTAINED IN THE BILL**

H.R. 4541 would impose three new private-sector mandates as defined by UMRA. First, the bill would require insured depository institutions to keep more detailed records for certain financial contracts. Section 209 would authorize the Federal Deposit Insurance Corporation (FDIC) to prescribe additional recordkeeping requirements for certain qualified financial contracts held by depository institutions. Under the Federal Deposit Insurance Act, qualified financial contracts are defined for five types of financial contracts: securities contracts, commodity contracts, forward contracts, repurchase agreements, and swap agreements. The FDIC anticipates that under the new requirements, institutions would essentially have to ensure that certain data that they already collect (and record) on such contracts are organized in a manner that would be accessible to the FDIC. Consequently, CBO expects that the direct costs of this mandate would not be large.

Second, H.R. 4541 would require a registered futures association to adopt “suitability rules” for its members, regarding advising customers on the purchase or sale of newly authorized futures on single stocks and futures on narrow stock indexes. Such rules would require that a futures commission merchant, a commodity trading advisor, or an introducing broker that recommends such a purchase or sale to ascertain the suitability of that recommendation for their customers. According to industry representatives, such suitability rules would be similar to the “know your customer requirements” that the National Futures Association adopted in 1985. Thus, CBO expects that the direct costs of issuing suitability rules would be negligible.

Third, the bill would authorize the Federal Reserve and the Secretary of the Treasury, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, to jointly prescribe customer protection regulations that apply to sales practices relating to retail swap transactions. According to regulatory and industry representatives, the retail market for swaps may develop in the future, but such transactions are currently limited, if any. Thus, this mandate would have no immediate cost.

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